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8	WESTERN DISTRICT OF WASHINGTON		
9	AT TAC	OMA	
10	NICHOLAS HACHENEY,		
11	Petitioner,	CASE NO. 3:15-CV-05492-RBL-DWC	
12	v.	ORDER GRANTING MOTION FOR LEAVE TO AMEND	
13	MIKE OBENLAND,		
14	Respondent.		
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16	The District Court has referred this action to United States Magistrate Judge David W.		
17	Christel. Petitioner Nicholas Hacheney, through court-appointed counsel Jeffrey E. Ellis, filed his		
18	federal habeas Petition ("Petition"), pursuant to 28 U.S.C. § 2254, seeking relief from a state court		
19	conviction. Dkt. 1. Presently pending before the Court is Petitioner's Motion for Leave to Amend		
20	Habeas Petition ("Motion"). Dkt. 35.		
21	1 BACKGROUND		
22	On July 16, 2015, Petitioner filed his Petition raising six grounds for relief. See Dkt. 1.		
23	After review of the Petition, the Court concluded Petitioner's fifth ground for relief ("Ground 5")		
24	raised a <i>Brady</i> violation, which had not been exhausted. <i>See</i> Dkt. 34. On May 11, 2016, the Court		

1	ordered Petitioner to show cause why Ground 5 should not be denied based on a failure to exhaust	
2	and procedural default. Dkt. 34. On May 23, 2016, Petitioner filed the Motion, which the Court	
3	interprets as a response to the Order to Show Cause, stating he intended to raise Ground 5 as a	
4	Confrontation Clause violation. Dkt. 35. He now seeks leave to amend his Petition to clearly assert	
5	a Confrontation Clause violation. <i>Id.</i> Petitioner states Respondent has no objection to the request to	
6	amend. Id. at p. 4. 1	
7	DISCUSSION	
8	A habeas petition may be amended as provided by Rule 15 of the Federal Rules of Civil	
9	Procedure. Mayle v. Felix, 545 U.S. 644, 649 (2005). Pursuant to Rule 15(a),	
10	(1) Amending as a Matter of Course A party may amend its pleading once as a matter of course within:	
11	(A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required,	
12	21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is	
13	earlier.	
14	(2) Other Amendments In all other aggregation party, may amond its pleading only with the	
15	In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires. The time for filing an amended petition as a matter of course has expired. To amend his Petition,	
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17	Plaintiff must have Respondent's written consent or the Court's leave. <i>See</i> Fed.R.Civ.P. 15(a)(2).	
18	Respondent has not provided written consent; however, Petitioner states Respondent does not	
19	object to the request to amend his Petition. Dkt. 35. Regardless of written permission from	
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21	Respondent, the Court finds justice requires Petitioner be allowed to amend his Petition.	
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24	¹ Respondent has not filed a response to the Motion.	

Petitioner asserts he intended to raise Ground 5 as a Confrontation Clause violation, 1 2 which is how he raised this ground in the state courts. Dkt. 35. He contends he inadvertently framed his claim in a manner that could be construed as a Brady claim. Id. at p. 4. The Court 3 finds Respondent will not be prejudiced by allowing Petitioner to amend his Petition to clearly allege a Confrontation Clause violation in Ground 5, in part, because Respondent initially 5 interpreted Ground 5 to be a Confrontation Clause violation. See Dkt. 20. After review of the 6 7 record, the Court finds the interests of justice require Petitioner be given leave to amend. 8 Accordingly, Petitioner's Motion is granted as follows: 9 Petitioner shall file an amended petition by June 17, 2016. In the amended 10 petition, Petitioner must re-allege all grounds for relief on which he wishes to 11 proceed. The amended petition will act as a complete substitute for the original 12 Petition, not a supplement. The amended petition shall be noted for July 22, 2016. 13 Respondent shall file a supplemental answer to the amended petition by July 1, 14 2016. 15 Petitioner may file a supplemental response by July 15, 2016. 16 If Petitioner does not file an amended petition by June 17, 2016, this Court will proceed 17 on the original Petition. 18 Dated this 8th day of June, 2016. 19 20 United States Magistrate Judge 21 22 23 24